

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JESSICA NORTHWOOD
21514 English Hollow Rd
Mineral Point, WI 53565

Plaintiff,

Case No. 16-cv-171

vs.

MONKEYSHINES, INC.
6209 County Trunk P.D.
Fitchburg, WI 53719

Defendant.

COMPLAINT

Plaintiff, Jessica Northwood, by her attorneys, Hawks Quindel S.C., for her Complaint against Defendant, Monkeyshines, Inc., states as follows:

PRELIMINARY STATEMENT

1. Plaintiff was employed by Defendant, Monkeyshines, Inc., from 2005 to January 2016. During her employment, and within the three-year period preceding this Complaint, Plaintiff regularly worked between 50-60 hours per week and was provided no additional compensation for hours worked in excess of 40 in a workweek. Plaintiff seeks payment of overtime wages, liquidated damages as permitted under federal and state law, and payment of attorney's fees and costs in bringing this action.

PARTIES

2. Plaintiff, Jessica Northwood, is an adult resident of the state of Wisconsin, residing at 21514 English Hollow Road, Fitchburg, Wisconsin. At all times material to this matter, Plaintiff was an employee of Defendant as defined by 29 U.S.C. § 203(e), Wis. Stat. § 103.001(5), and Wis. Stat. § 109.01(1r). Plaintiff's signed Consent Form is attached to this Complaint as Exhibit A and is incorporated herein by reference.

3. Defendant, Monkeyshines, Inc.¹, (hereafter "Monkeyshines"), is a domestic business with its principal office at 6209 County Trunk P.D., Fitchburg Wisconsin. Its Registered Agent for Service of Process is William G. McMahan.

4. At all times relevant to this Complaint, Monkeyshines was the "employer" of Plaintiff within the meaning of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 203(d), Wis. Stat. § 103.001(6), and Wis. Stat. § 109.01(2).

5. At all times material to this Complaint, Monkeyshines has been an enterprise engaged in commerce within the meaning of 29 U.S.C. § 203(s)(1). Further, Plaintiff has been an employee engaged in commerce within the meaning of 29 U.S.C. § 207(a)(1) at all times material to this Complaint.

JURISDICTION AND VENUE

6. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 in that Plaintiff's claims arise under the FLSA, 29 U.S.C. § 201, et seq. The

¹ Corporate records with the Wisconsin Department of Financial Institutions name this business as "Monkeyshine, Inc." The paychecks given to Plaintiff showed "Monkeyshines, Inc." as the name of the business.

Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1337.

7. Venue is proper in the Western District of Wisconsin under 28 U.S.C. § 1331 because Defendant operates its business in this district and because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this district.

ALLEGATIONS

8. Defendant employed Plaintiff as a bartender from 2005 through January 2016.

9. At no time during her employment with Defendant was Plaintiff exempt from overtime or minimum wage payment under the FLSA or Wisconsin law.

10. Throughout her employment with Defendant, Plaintiff was regularly suffered and permitted to work hours in excess of forty (40) in a week and was not provided overtime compensation. Instead, Plaintiff was paid straight time for all hours worked.

11. Plaintiff had a written employment agreement with Defendant stating that she would receive a week of paid vacation. However, at points during the statutory period, Plaintiff did not receive payment in accordance with this agreement.

FIRST CAUSE OF ACTION:
FAILURE TO PAY OVERTIME WAGES
IN VIOLATION OF THE FLSA

12. Plaintiff re-alleges and incorporates the preceding paragraphs as though set forth here in full.

13. The FLSA, 29 U.S.C. § 207, requires each covered employer to compensate all non-exempt employees at a rate of one and one-half times the regular rate of pay for work performed in excess of forty (40) hours in a workweek.

14. During her employment with Defendant, Plaintiff was suffered and permitted to work hours over forty (40) in a workweek for Defendant without overtime compensation.

15. Defendant's practices violate the provisions of the FLSA, including, but not limited to, 29 U.S.C. § 207. As a result of these unlawful practices, Plaintiff has suffered a wage loss.

16. Defendant knew or showed reckless disregard for the fact that it failed to pay Plaintiff overtime wages in violation of the FLSA.

17. Plaintiff seeks damages in the amount of twice the unpaid overtime wages earned during her employment as well as attorney's fees and costs in bringing this action pursuant to 29 U.S.C. § 216(b).

SECOND CAUSE OF ACTION:
FAILURE TO PAY REGULAR AND OVERTIME WAGES
IN VIOLATION OF WISCONSIN LAW

18. Plaintiff re-alleges and incorporates the preceding paragraphs as though set forth here in full.

19. The foregoing conduct, as alleged, violates Wis. Stat. § 103.02, Wis. Stat. § 109.03, and Wis. Admin. Code § DWD 274.03.

20. Wis. Stat. § 103.02 and Wis. Admin. Code § DWD 274.03 require an employer to pay overtime compensation to all non-exempt employees for hours worked in excess of forty (40) in a workweek.

21. Wis. Stat. § 109.03 requires an employer to pay all wages earned by an employee, including vacation pay agreed upon between the employer and the employee.

22. During her employment with Defendant, Plaintiff was suffered and permitted to work hours over forty (40) in a workweek for Defendant without overtime compensation.

23. During her employment with Defendant, Plaintiff was denied regular wages under Wis. Stat. § 109.03 when her employer failed to pay her agreed-upon vacation pay.

24. As a result of Defendant's willful failure to pay regular and overtime wages earned and due to Plaintiff, it has violated Wis. Stat. §§ 103.02, 109.03, and Wis. Admin. Code § DWD 274.03.

25. Plaintiff seeks damages in the amount of the unpaid wages earned and due as provided by Wis. Stat. §§ 103.02, 109.03, and Wis. Admin. Code § DWD 274.03, recovery of attorney's fees, costs, and expenses of this action to be paid by Defendant as provided by Wis. Stat. § 109.03(6), and any penalties due under Wis.

Stat. § 109.11, as well as such other legal and equitable relief from Defendant's unlawful and willful conduct as the Court deems just and proper.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant, awarding her:

- A. The overtime compensation owed to Plaintiff under 29 U.S.C. § 207 for the three-year time period prior to the commencement of this action;
- B. The regular and overtime wage compensation owed to Plaintiff under Wis. Stat. §§ 103.02, 109.03, and Wis. Admin. Code § DWD 274.03 for the two-year time period prior to the commencement of this action;
- C. Liquidated damages in an amount equal to the amount awarded to her as overtime wage compensation as provided in 29 U.S.C. § 216(b);
- D. Penalties due under Wis. Stat. § 109.11;
- E. All attorney's fees incurred by Plaintiff in prosecuting this action and the costs of this action, as provided in 29 U.S.C. § 216(b) and Wis. Stat. § 109.03(6); and
- F. Such other legal or equitable relief as this Court deems just and necessary to vindicate Plaintiff's rights under Wisconsin law and the FLSA.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury.

Dated: March 17, 2016.

HAWKS QUINDEL, S.C.
Attorneys for the Plaintiff

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